



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF NEXGEN)	ORDER
NETWORKS CORPORATION D/B/A NEXGEN FOR)	
APPROVAL TO PROVIDE LOCAL EXCHANGE)	
TELECOMMUNICATIONS SERVICES)	
THROUGHOUT THE STATE OF NEW JERSEY)	DOCKET NO. TE09060491

(SERVICE LIST ATTACHED)

Robert D. Balin, Esq., Davis Wright Tremaine LLP, Washington, D.C., for the Petitioner

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated June 23, 2009, NexGen Networks Corporation ("Petitioner" or "NexGen") filed a Petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide facilities-based local exchange telecommunications services throughout the State of New Jersey.

NexGen is a privately owned company organized under the laws of the State of Delaware. Jeffrey Barth is the president and principal owner of the company and has 100% ownership interest. Petitioner's principal offices are located at 64 Beaver Street, Suite 104, New York, New York 10004.

Petitioner has submitted copies of its Certificate of Incorporation from the State of Delaware and its New Jersey Certificate of Authority to operate as a Foreign Corporation. Petitioner is authorized to do business in the District of Columbia, Florida, Maryland, New York and Virginia and has approval to operate as a reseller of telecommunications services in New York. Petitioner's applications are pending in the State of Connecticut, Illinois, New Jersey, Pennsylvania and Texas. Petitioner states that it has not been denied authority to provide telecommunications services, its authority has not been revoked in any jurisdiction and it has not been the subject of any civil or criminal proceedings. The company does not plan to enter into an interconnection agreement with incumbent local exchange carriers ("ILEC") because it currently uses interconnect carriers such as XO Communications, Verizon Business and RCN Corporation to extend hub sites to the customers' end locations. Upon approval of its petition,

applicant plans to execute an interconnection agreement with ILEC to place collocation space and power in certain areas of the state in an effort to extend its reach.

Petitioner seeks authority to provide facilities-based local exchange telecommunications services to both residential and business customers in the State of New Jersey. The company plans to provide point to point internet and Ethernet services to business customers which will include voice services. Petitioner currently leases space from collocation providers in key hub locations in New Jersey which includes Jersey City, Weehawken, Clifton and Newark. Currently petitioner does not have any facilities in New Jersey. Petitioner's plans for outside fiber plant facilities is to either build trench and/or lease conduit access for Petitioner's backbone and building access fiber. Petitioner states that upon approval of its petition it plans to buy or lease space in Newark or Secaucus, New Jersey as the location for its main United States Network Operations Center. Pursuant to N.J.A.C. 14:10-5.6(b), Petitioner has filed an initial tariff under Docket No. TT09060492 which will become effective 30 days after the Board approves its petition for local exchange authority. Petitioner maintains a toll-free number for customer service inquiries.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located in New York, New York. Petitioner also states, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, NexGen states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel, who, according to NexGen, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. §253(a).

Any grant of authority is subject to the right of the Board as the state regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. §253(c).

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets of qualified applicants. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed NexGen's' Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange telecommunications services throughout the State of New Jersey.

The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52 the Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively.

The Board HEREBY ORDERS that:

- 1 Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 2) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintains its books and records in accordance with USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination

of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in accordance with USOA and in New Jersey.

DATED: 12/1/09

BOARD OF PUBLIC UTILITIES
BY:



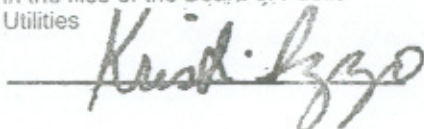
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ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



IN THE MATTER OF THE PETITION OF NEXGEN NETWORKS CORPORATION
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICES
IN THE STATE OF NEW JERSEY

DOCKET NO. TE09060491

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